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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,971	11/03/2003	Jamie Crawford	5434-8	5019

27799 7590 02/12/2007
COHEN, PONTANI, LIEBERMAN & PAVANE
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NEW YORK, NY 10176

EXAMINER

MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/699,971

Applicant(s)

CRAWFORD ET AL.

Examiner

Elizabeth R. MacNeill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-25,27-33 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 6-25, 27-33, and 37-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

This action is in response to applicant's amendments and request for continued examination submitted 4 January 2007.

Claim Objections

1. Claim 12 is objected to because of the following informalities: said resilient lever arm has no antecedent basis. Also, if antecedent basis is, added claims 9-12 may be objected to as being substantial equivalents of claims 6-8. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,6,9,13-18,23,25,32,33,37 and 39-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al (US 4,932,940).

Regarding claims 1,2,9,13-18,23,25,32,33, and 39-43, Walker teaches a syringe assembly comprising a barrel (8), a needle cannula (40), a plunger (30) with stopper (distal end of 30) and thumb pad (proximal end of 30), a shield (6), an urging member (16), a lock lout track (32), an entry track (28), a pin (22), and a lock (34). See Figs 7-11 for the movement of the shield and pin.

3. Claims 1,18,20,21,24,25,27,29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by D'Alessio et al (US 5,389,085).

Regarding claims 1,18,20,21,24,25,27,29, and 30, D'Alessio teaches a syringe assembly comprising a barrel (81), a needle cannula (55), a plunger (82) with stopper (distal end of 82) and thumb pad (proximal end of 82), a shield (60), an urging member (62), a lock out track (25), an entry track (22), and a pin (21). D'Alessio shows dual track in Fig 6. It is disclosed that the syringe, barrel, and shield may be made of plastic. The barrel comprises a cylindrical portion (60) which defines the track arrangement (Fig 7) which may be formed unitarily with the barrel.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-12 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Berthier (US 5,429,612).

Walker discloses the syringe assembly as above. Walker does not disclose the blocking element comprising an inclined surface which the pin slides over. Berthier discloses a barrel 7, cannula 6, plunger 5, shield 8, urging member 20, pin 26 and one-way step 27. See Figures 1-3. Berthier also shows an entry track 23 and a lockout track 25/28.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lockout track and resilient pin of Berthier with the sliding shield arrangement of Walker in order to provide a lockout track which prevents the syringe assembly from being reused and "avoid the accidental rotation of the sleeve to arm the device."

6. Claims 19,22,28, and 31 rejected under 35 U.S.C. 103(a) as being unpatentable over D'Alessio et al (US 5,389,085).

Regarding claims 19,22,28, and 31 it is well known in the art to use glass as a material for a syringe barrel. It would have been within the skill of one of ordinary skill in the art to use glass as the material for the syringe barrel as a matter of obvious design choice.

Response to Arguments

7. Applicant's arguments with respect to claims 1-2, 6-25, 27-33, and 37-43 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



ERM

Elizabeth
MacNeil
1/25/07